

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 97-115-T - ORDER NO. 97-278

APRIL 4, 1997

IN RE: Request of Jackson Enterprises of	)	ORDER GRANTING
Sumter, Inc. for Approval of Stock	)	WAIVER AND
Transfer and Waiver of Notice	)	APPROVING STOCK
Requirements.	)	TRANSFER

This matter comes before the Public Service Commission of South Carolina ("Commission") on the request of Jackson Enterprises of Sumter, Inc. ("Jackson Enterprises" or "Applicant") for approval of a stock purchase (transfer). Jackson Enterprises also requests that any notice requirements be waived.

In the request before the Commission, the Applicant informs the Commission that Jackson Enterprises is the holder of the Certificate of Public Convenience and Necessity No. 2482 ("Certificate No. 2482"). Certificate No. 2482 was issued on August 7, 1984 and was approved by Order No. 84-519 in Docket No. 84-190-T. The Certificate grants Jackson Enterprises the authority to furnish motor freight service over irregular routes as follows:

Hazardous Wastes, consisting of any waste or combinations of waste of a solid, liquid, contained gaseous, or semisolid form, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, is defined by Section 44-56-20 (6) of the 1979 Cum. Supp. 1976 Code of Laws of S.C., and as amended, and is identified by Rule 61-79.1B promulgated by the S.C. Department of Health and Environmental Control, effective March 31, 1980, and as amended:  
Between points and places in South Carolina.

Jackson Enterprises is the holder of Certificate No. 2482, and the Commission is advised that after the proposed stock purchase (transfer) Jackson Enterprises will remain a viable entity and will remain the holder of the Certificate No. 2482. The Commission is further advised that only the stockholder of Jackson Enterprises will change as a result of the stock purchase (transfer). By Contract of Sale dated December 23, 1996, Stephen H. Jackson, President of Jackson Enterprises, agreed to sell one hundred (100%) percent of the stock of Jackson Enterprises to G & K Tank Services, Inc. (whose principals are James T. Glasscock, Jr. and Thomas D. Keels, Jr.). Therefore, the new stockholder of Jackson Enterprises will be G & K Tank Services, Inc., and the new address for Jackson Enterprises will be 5070 Broad Street Ext., Sumter, South Carolina 29154 (Mailing Address: P.O. Box 1384, Sumter, South Carolina 29251-1384).

26 S.C. Code Ann. Reg. 103-155 (Supp. 1996) provides in relevant part that "no certificate of PC&N or Certificate of Compliance or rights thereunder shall be sold, assigned, leased, transferred, mortgaged, pledged or hypothecated, by the sale of stock or otherwise, unless first authorized by the Commission as provided in 103-135 ..."

26 S.C. Code Ann Reg. 103-135 (3) (Supp. 1996) provides as follows:

3. Application to Sell or Otherwise Transfer a Certificate of PC&N.

a. If the application is for approval of a sale or other transfer of a certificate, a copy of the proposed sales or other transfer agreement must be filed with the application and must contain the entire agreement between parties, including (1) an accurate description of the operating rights and

other property to be transferred, and (2) the purchase price agreed upon and all the terms and conditions with respect to the payment of the same.

b. No sale or other transfer of a Certificate of PC&N shall be approved by the Commission until the transferor (seller) has filed with the Commission a statement under oath showing (1) all assets of the holder of the certificate to be sold, (2) all debts and claims against the transferor (seller) of which such seller has any knowledge or notice, (3) wages due employees of the transferor (seller), (4) unremitted COD collections due shippers, (5) claims for loss of or damage to goods transported or received for transportation, (6) claims for overcharges on property transported, and (7) interline accounts due other carriers. There shall also be filed with the Commission a verified statement from the transferee (purchaser) or an authorized agent or officer thereof, guaranteeing the payment of all just obligations as listed in the sworn statement of the seller. This subsection shall not be applicable to sales by personal representatives of deceased or incompetent persons, receivers or trustees in bankruptcy under court order.

In compliance with 26 S.C. Code Ann Reg. 103-135 (Supp. 1996), Jackson Enterprises has filed the Contract of Sale which sets forth the purchase price agreed upon and the terms and conditions with respect to the payment of the purchase price. The transferor has submitted a sworn statement stating that all assets listed in the Contract of Sale are being transferred and further that there are no debts and claims against the transferor; that there are no wages due employees of the transferor; that there are no unremitted COD collections due shippers; that there are no claims for loss of or damage to goods transported or received for transportation; that there are no claims for overcharges on property transported; and that there are no interline accounts due other carriers. Jackson Enterprises also submitted manifests indicating that the services offered under

Certificate No. 2482 have been continuously offered for the twelve months prior to filing the request for approval of the stock transfer.

The Commission finds and concludes that the stock purchase (transfer) as requested by Jackson Enterprises is the type of transaction which was anticipated by 26 S.C. Code Ann. Reg. 103-155 (Supp. 1996) and 26 S.C. Code Ann. Reg. 103-135 (Supp. 1996).

26 S.C. Code Ann. Reg. 103-101 (2) (1976) provides that "these rules are subject to such exceptions as may be considered just and reasonable in individual cases ..." Upon consideration of this matter, the Commission finds and concludes that it is just and reasonable and in the public interest to waive the notice requirements. In waiving the notice requirement (and any possible hearing on this Application), the Commission is mindful that the corporate entity of Jackson Enterprises is surviving and remaining the holder of Certificate No. 2482 and that only the stockholder and address of Jackson Enterprises is changing.

26 S.C. Code Ann. Reg. 103-135 (4) (Supp. 1996) provides in relevant part as follows:

The Commission shall approve an application for lease, sale or other transfer of a Certificate of PC&N made under this section upon finding (1) that sale, assignment, pledge, transfer, change of control, lease, merger, or combination thereof will not adversely affect the service to the public under said certificate, (2) that the person acquiring said certificate or control thereof is fit, willing and able to perform such service under said certificate, and (3) that all services under said certificate have been continuously offered and reasonably provided to the public for a period of time not less than twelve months prior to the date of filing of the application for approval of the sale, lease or

transfer of said certificate ...

Upon consideration of the request for approval of the stock purchase (transfer), the Commission makes the following findings regarding the stock transfer:

- (1) That approval of the stock purchase (transfer) will not adversely affect the service to the public under the said certificate;
- (2) That the entity which will be the holder of the certificate is fit, willing and able to perform the services authorized under the certificate; and
- (3) That all services under the certificate have been continuously provided for twelve months prior to the date of filing the request for approval of the stock transfer.

In making the findings of fact listed above, the Commission recognizes that the corporate entity of Jackson Enterprises is continuing and that only the stockholder and address of Jackson Enterprises is changing. Further, the Commission is conscious of the fact that G & K Tank Services, Inc., the new stockholder of Jackson Enterprises, is a carrier which is certified by this Commission and that the principals of G & K Tank Services, Inc. have experience in the business of moving hazardous wastes. The experience of the new stockholder and principals, combined with the continuation of the entity and business of Jackson Enterprises leads the Commission to believe that Jackson Enterprises will continue to be fit, willing, and able to perform the services authorized by Certificate No. 2484. The Commission is also aware that the services under Certificate No. 2484 have been continuously offered for twelve months prior to the request to approve the stock purchase (transfer), as evidenced by the manifests submitted with the request.

Therefore, based on the above stated findings of fact, the Commission concludes that the request of Jackson Enterprises for approval of the stock purchase (transfer) should be, and hereby is, granted.

IT IS THEREFORE ORDERED THAT:

1. The request of Jackson Enterprises for a waiver of the notice requirements in this proceeding is granted.

2. The stock purchase (transfer) requested by Jackson Enterprises is approved.

3. Pursuant to the herein approve stock purchase (transfer), the new stockholder of Certificate No. 2484 issued to Jackson Enterprises of Sumter, Inc. shall be shown as G & K Tank Services, Inc. with the principals of G & K Tank Services, Inc. being shown as James T. Glasscock, Jr. and Thomas D. Keels, Jr. Further, the new address for Jackson Enterprises will be listed as 5070 Broad Street Ext., Sumter, South Carolina 29154 (Mailing Address: P.O. Box 1384, Sumter, South Carolina 29251-1384).

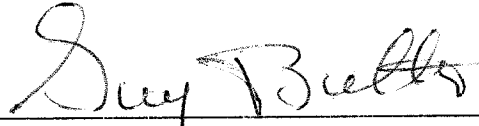
4. Jackson Enterprises shall file the proper license fees and other information (such as rates, evidence of insurance, and safety rating) required by S.C. Code Ann. §58-23-10 et seq. (1976), as amended, and Reg. 103-100 through Reg. 103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976) as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

5. Upon compliance with S.C. Code Ann §58-23-10, et seq., (1976), as amended, and the applicable provisions of Reg. 103-100

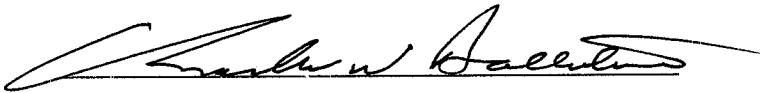
through Reg. 103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976) as amended, an amended Certificate of Public Convenience and Necessity shall be issued to the Transferee.

6. This Order shall remain in effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:



Executive Director

(SEAL)